federal register

Friday
June 1, 1979

Part VIII

Department of Energy

Emergency Building Temperature Restrictions; Hearings

DEPARTMENT OF ENERGY

[10 CFR Part 490]

[Docket No. CAS-RM-79-109]

Emergency Building Temperature Restrictions; Proposed Rulemaking and Public Hearings

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearings.

SUMMARY: The Department of Energy (DOE) proposes regulations to implement "Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions" (the Plan), which place temporary, emergency restrictions on thermostat settings for heating, cooling and hot water in commercial, industrial and other non-residential buildings, including government buildings, necessary to reduce energy consumption.

These proposed regulations contain specific heating and cooling restrictions for both simple and complex heating, ventilating and air conditioning systems as well as domestic hot water temperature restrictions. The proposed regulations would exempt residential buildings, hotels, hospitals and health care facilities and certain other categories of buildings from the Plan's temperature requirements. Standards and procedures are proposed for states seeking exemptions under the Plan on grounds that a comparable state program is in effect. Finally, this proposal sets out procedures for Federal enforcement of mandatory temperature restrictions and contains penalty provisions for violation of those restrictions.

DATES: Written comments must be received by June 22, 1979, 4:30 p.m., e.d.t., in order to ensure their consideration. Hearings will be held in San Francisco, California (June 14, 1979); Chicago, Illinois (June 14, 1979); Dallas, Texas (June 18, 1979); New York, New York (June 18, 1979); Washington, D.C. (June 18, 1979) at the places indicated in Section III of Supplementary Information.

ADDRESSES: Comments should be addressed to: Margaret Sibley, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Room 2221C, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Henry G. Bartholomew, Office of Buildings and Community Systems, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Room 2221C, Washington, D.C. 20585 (202) 376-4646.

Peter Schaumberg, Office of General Counsel, Room 510, 1726 M Street, N.W., Washington, D.C. 20461 (202) 634-5545.

Robert C. Goodwin, Jr., Office of General Counsel, Room 5116—Federal Building, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461 (202) 633-9380.

Margaret Sibley, Office of Conservation & Solar Applications, Room 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585 (202) 376-1651.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 201 (a) and (b) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) (EPCA), the President developed and transmitted to Congress on March 1, 1979, "Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions" (the Plan). DOE published a notice on March 8, 1979 (44 FR 12906) of the President's adoption of the Plan. The Plan was approved by resolutions of the Senate on May 2, 1979 and of the House on May 10, 1979. The Plan places temporary, emergency restrictions on thermostat settings for heating, cooling and hot water in commercial, industrial and non-residential public buildings.

Specifically, the Plan mandates thermostat settings of 65°F maximum for heating, 80°F minimum for cooling and 105°F maximum for hot water, or any other levels which DOE determines are reasonable and necessary to reduce energy consumption. Section 201(b) of the EPCA provides that to put the Plan into effect the President must transmit to Congress his finding that the Plan's effectiveness is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, together with a statement of the effective date and manner for exercise of the Plan. After these steps are completed, under section 201(a) of the EPCA, the Plan would be implemented for a period of no longer than nine months, unless earlier terminated by the President. In his April 5, 1979 Energy Address to the Nation, the President stated his intention to put the Plan, once approved by Congress, into effect.

The Plan is substantially similar to proposed Energy Conservation Contingency Plan No. 1 prepared by the Federal Energy Administration and published for public comment in the Federal Register on May 28, 1976 (41 FR 21908). Public hearings on that proposed plan were held in five locations during June 1976. Transcripts of the hearings and the written public comments received are available for public inspection in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

The Plan authorizes DOE to implement, administer, monitor and enforce its terms and to promulgate regulations as necessary and appropriate. It is in this connection that these regulations are proposed. Specific heating and cooling restrictions for both simple and complex heating, ventilating and air conditioning systems are included, as well as domestic hot water restrictions. As provided in the Plan, hotels, hospitals and health care facilities and certain other categories of buildings would be exempt from the temperature requirements.

The Plan authorizes DOE to review applications from states or political subdivisions thereof seeking exemption from building temperature requirements on grounds that a "comparable program" is in effect. These regulations propose standards of comparability and a procedure for granting state exemptions. Finally, Federal enforcement procedures are proposed together with penalty provisions for violation of the temperature restrictions.

In connection with the preparation of these proposed regulations, DOE met with representatives of control device and heating, ventilating and air conditioning systems manufacturers, and with representatives of building owners' and operators' associations to discuss development of technical standards. In addition, DOE met with representatives of interested Federal agencies, including the General Services Administration, the Department of Defense, the Department of Health, Education and Welfare, and the Food and Drug Administration, to review technical and health-related issues. Meetings were also held with representatives of state and local governments to discuss the technical aspects of the regulations, as well as implementation and enforcement strategies. Records of these meetings will be made a part of the public record of the development of these regulations.

II. Proposed Regulations

A. *Scope and Definitions.*

Scope

Section 490.1 provides that the proposed regulations on building temperature restrictions are to apply to covered buildings (the definition of which is discussed below) in each state or political subdivision unless such state or political subdivision is exempted from the application of the regulations in accordance with prescribed procedures. These regulations will supersede any inconsistent state or local laws or regulations.

These regulations can only be adopted in final form after the President has made a finding of the existence of a severe energy supply interruption within the meaning of section 3(8) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) (EPCA), and has transmitted the finding to the Congress in accordance with the requirements of section 201 of the EPCA. In his address to the Nation on April 5, 1979, the President stated his intention to implement the Building Temperature Restrictions Plan in the near future.

Authority To Contract or Delegate and Issue Guidelines and Orders

DOE is authorized under § 490.3 of the regulations to delegate or contract for the carrying out of all or any part of the functions under these regulations. As is discussed further in a later section of this preamble, it is DOE's intention to delegate the inspection and related authority to states willing to accept the responsibility. DOE is further authorized by § 490.4 to issue orders and guidelines and make such adjustments as are necessary to administer and implement the building temperature restriction regulations.

Definitions

Many of the terms defined in § 490.5 are discussed in later sections of the preamble where they appear in the relevant substantive sections. Some terms, however, are not elsewhere fully discussed and it is essential that the substantive concepts in the definitions be well understood. These are discussed below.

The concept of "covered building" is important since the substantive requirements of the proposed regulations apply only in covered buildings. A covered building is defined in § 490.5(c) as including every building *or portion of a building*, with only limited exclusions. These exclusions include residential buildings, hotels and other lodging facilities, hospitals and other health care facilities, elementary schools, nursery schools and day-care centers. Furthermore, there is a *proviso* which incorporates nonsleeping facilities of a hotel or lodging facility into the definition of covered building to the extent such areas have separate heating, cooling and hot water system control devices. An understanding of the scope of each exemption and the *proviso* is essential to determining the scope of term covered building.

The term "residential building" is defined in § 490.5(t) as any building used for residential purposes, but does not include non-residential portions of the building which have separate heating, cooling or hot water space-conditioning control devices. Under this definition, as incorporated in the term covered building, all residential portions of residential buildings, without exception, are excluded from the scope of the regulations. Non-residential portions of such buildings are included under the scope of the regulations only if they have space-conditioning control devices (thermostats, etc.) separate from the residential portions of the building.

"Hotel or other lodging facility" is defined in § 490.5(m) as any building where sleeping and lodging accommodations are provided to the public in the ordinary course of business. This includes, but is not limited to hotels, motels, resorts, rooming houses, dormitories, barracks, YMCA's, as well as other accommodations available to the public. The *proviso* discussed above in the definition of covered building limits the exclusion for such buildings to the sleeping portions of the building to the extent that non-sleeping areas have space-conditioning control devices separate from the sleeping areas. In a hotels, for example, if the restaurant, ballrooms and lobby had space-conditioning control devices separate from the sleeping areas, they would be covered by the temperature restrictions of the proposed regulations.

Hospitals and other health care facilities are another category of building which is excluded from the definition of covered building. Hospitals and other health care facilities are defined in § 490.5(l) as including general hospitals, tuberculosis hospitals or any other type of hospital, clinics, nursing or convalescent homes, hospices or other facilities duly authorized to provide health care service under the laws of the state in which the hospital or other facility is located. The state licensing requirement is intended to define narrowly the scope of this category. Medical and nursing school buildings, administration buildings and other buildings associated with hospitals and health care facilities, but where patients are not treated, are not intended to be included within this category of exclusion from the definition of "covered buildings."

B. *Heating and Cooling Restrictions*

The regulations divide buildings into two basic categories: those without capability for simultaneous heating and cooling and those with such a capability. An element common to both categories of buildings is that the temperature control restrictions are imposed upon operators of covered buildings. The term "operator" is defined in § 490.5(o) of the proposed regulations, and includes generally such persons as the building engineer, his employer, the owner of the building or its tenants. The relevant factor in the regulations is whether a person has control, either directly or indirectly (as when an owner has an agent managing the building) over heating, cooling or hot water temperature controls. Thus a tenant of a building who has a room air conditioner in his office could be an operator of the controls on that unit. At the same time, the building engineer is an operator of the central plant in the building. Similarly, the tenant of retail space in a shopping mall or office building who is able to control temperatures within that space is an operator for purposes of these regulations. The landlord of such space also could be an operator to the extent he controls heating or cooling equipment. So long as no operator takens any action proscribed by the regulations with respect to heating, cooling and hot water controls, no liability will result.

Buildings Without Capability for Simultaneous Heating and Cooling

Numerous HVAC (heating, ventilating and air conditioning) systems cannot simultaneously heat and cool. For example, small buildings frequently have one thermostat controlling the entire building with three settings: heat, off, cool. Another example is the two-pipe system in which the operator selects whether chilled or heated water will be supplied to the terminal units, depending on anticipated needs. For such systems room-temperature control is usually accomplished with a thermostat.

Some HVAC systems, such as reheat systems, although not having the capability for simultaneous heating and cooling of an individual room, do operate by simultaneously heating and

cooling. Other examples are identified by their common titles in the definition of "capability for simultaneous heating and cooling" in § 490.5(b) of the regulations. These systems are governed by the regulations for systems with the capability for simultaneous heating and cooling as discussed below.

The regulations for HVAC systems without simultaneous heating and cooling capacity prohibit an operator from setting space-conditioning control devices (thermostats, etc.) so that energy is used to raise the dry-bulb temperature (the temperature as read on an ordinary thermometer) above 65° F for heating or below 80° F for cooling (cooling energy below 80° F is authorized to the extent necessary to bring the dew-point temperature, a measure of humidity, to 67° F). This in effect creates a deadband of 65°–80° F in which no energy (other than ventilation) may be utilized to change temperatures. In many of the systems that do not have the capability for simultaneous heating and cooling, there is no adjustable dew-point control. However, the dew-point of the supply air in such systems is typically 50° F and therefore humidity should not be a problem. Ventilation is authorized at all times so that outside air can be brought in to adjust temperatures as necessary.

The deadband prescribed in the regulations is slightly greater than the comfort zone defined by American Society of Heating, Refrigerating and Airconditioning Engineers, Inc. (ASHRAE) Standard 55–74, "Thermoenvironmental Conditions for Human Occupancy," which defines the comfort zone approximately from 72° F to 80° F dry-bulb temperature and 37° F to 62° F dew-point temperature. The range has been extended mostly toward lower temperatures and only slightly toward higher or more humid temperatures on the assumption that occupants can alter their clothing habits to maintain personal comfort. Use of sweaters, jackets and other apparel should be sufficient to compensate for the 65° F limit; use of open-necked apparel should be sufficient to compensate for the 80° F dry-bulb and 67° F dew-point limits. Exemptions from these limits are discussed below, but generally no exemption is provided for reasons of human comfort.

Alternatives to the 65°F–80°F deadband (with 67° dew-point limit on cooling) were considered. We did consider a humidity factor for heating limits but rejected it as providing too great an opportunity for avoiding the maximum heating temperature limits with only a small impact on human comfort. For example, a minimum dew-point temperature of 30°F would allow an operator in a building with low humidity to raise the dry-bulb above 65°F dry-bulb and yet assert compliance with the regulations by merely placing a pan of water in the room as a device to raise humidity to 30°F dew-point. The humidity levels at 65° dry-bulb in almost all instances are comfortable and so a minimum humidity level was rejected. Additional comfort can be achieved through the use or installation of humidification equipment.

As an alternate to the dew-point temperature, we have considered more commonly measured quantities such as the relative humidity or the wet-bulb temperature. However, according to ASHRAE Standard 55–74, the lines of constant comfort are defined by lines of constant dew-points.

In addition, if a constant relative humidity were permitted, for example 65%, then the operator could reduce the apparatus dew-point to achieve a confortable 73°F and 66% relative humidity, thereby maintaining compliance with the regulations but consuming more energy than normal.

We recognize that many humidity controls use relative humidity as the controlled variable rather then dew-point. At 80°F dry-bulb temperature, the relative humidity corresponding to 67°F dew-point temperature is approximately 65%. This combination of 80°F dry-bulb and 65% relative humidity is reasonably close to the confort zone as defined by ASHRAE Standard 55–74.

It is anticipated that in the interest of maintaining as much summertime confort as allowable under these regulations, the operator will reduce the apparatus dew-point to the lowest permissible value. The room humidity will then be determined by the latent load. If the load is due to people and the room temperature is maintained at 80°F, the room dew-point will be less than 67°F and the relative humidity less then 65% for almost all HVAC systems.

We have attempted to emphasize human comfort in defining the limits on room temperature and humidity; however, we have also considered the performance of various types of electrical and electronic equipment. Except for some computer equipment and other delicate electronics, the prescribed limits are compatible with most equipment, including some of the new computers. However, we specifically are interested in comments concerning the operation of equipment in the environment prescribed by the regulations, taking into account that some exemptions already are provided in the regulations for spaces with equipment requiring special environmental conditions, such as computer rooms. In this regard, comments should be as specific as possible. Empirical data on equipment performance would be most helpful. Subjective observations regarding this issue will be less helpful.

Buildings With Capability for Simultaneous Heating and Cooling

The second major category of HVAC systems is those with the capability for simultaneous heating and cooling covered by § 490.12 of the proposed regulations. We considered various systems, such as the commonly used reheat systems, in which energy consumption for cooling could be increased by an attempt to implement some of the measures applicable to simpler systems. For example, if the thermostat is set to 80°F in a system with reheat, the chiller will cool the supply air temperature to approximately 50°F and the reheat will raise the supply air temperature to as high as 80°F, thereby increasing the heating energy and adding to the cooling load. Therefore, a more complicated regulation is needed for these systems.

For HVAC systems with simultaneous heating and cooling capability, the general temperature restrictions applicable to simple systems also have been imposed. Heating energy is not to be supplied to raise the room temperature above 65°F dry-bulb temperature. This part pertains primarily to the heating season (winter), but also applies to reheat (summer). Therefore, if the air leaving the cooling coil of a reheat system is at 60°F, reheat can be used only to raise the room temperature to 65°F. Such occurrence is highly unlikely since the heat from lights and people would normally raise the temperature above 65°F. We recognize that many systems do not have the control flexibility to maintain comfort and control under this part of the regulation, so alternative techniques are provided in the regulations and are discussed below.

The second part of the regulation for systems with simultaneous capability pertains to the cooling system. Cooling energy is not to be supplied to lower the room temperature below 80°F, except as required to lower the room dew-point to 67°F. Reheat is prohibited by the previous paragraph.

The result of the previous two paragraphs pertaining to heating and cooling is that in the summer, some parts of large buildings with interior zones will operate with the interior zone

at 65°F (when sparsely occupied and with few lights on) while the exterior zones can be 80°F. Raising the cooling-coil temperature will decrease this temperature differential, at the cost of higher humidity, with a 60°F supply-air dew-point probably being acceptable in most cases for all zones.

People moving from interior to exterior zones in buildings with temperature differentials of this magnitude may experience some discomfort, although the heat-storage capability of the human body will partially compensate. In addition, we would expect people to leave doors open between the interior and exterior zones, to use fans to assist the natural convection between interior and exterior zones and to partially block the registers in the interior zones to reduce the cooling effect. Some discomfort may result from drafts, although people in warm rooms will experience cold drafts and people in cold rooms warm drafts. To further reduce the interior-to-exterior temperature differentials, the exterior walls can be better insulated. For example, drapes or plastic sheeting can be added to the windows and drapes or drywall can be added to the interior walls. People also can be moved away from the walls and windows to further reduce the coldness felt from the cold exterior walls. Properly insulated windows and walls combined with the perimeter heating systems usually located near the windows and walls should minimize the temperature variations in the exterior rooms and decrease the temperature differences between interior and exterior rooms.

A common energy-conserving HVAC system uses a central chiller to cool air being supplied to the core of the building where only cooling is required. The heat from the condenser water of the chiller is then circulated to the outside rooms of the building where heat is extracted by heat pumps in the room. These systems use, in effect, the heat from people, lights and equipment in the interior zone to heat the perimeter zones of the building. The heat pumps frequently have a dial that controls the room temperature at a single value, such as 72°F, although sometimes the dial indicates only "cooler" or "warmer". The interior zones in such buildings may not be cooled below 80°F dry bulb. During the cooling season, the same limit applies to the exterior zones. During the heating season, the exterior zones cannot be heated above 65°F. We are specifically interested in comments as to whether provision needs to be made for the intermediate season.

Not all HVAC systems with simultaneous heating and cooling capability can comply with the basic 65°F–80°F deadband concept. For such systems, alternative methods of temperature restriction are available at the choice of the operator, though they basically result in a 65°F to 80°F deadband.

Many HVAC systems use either a constant-air-volume or a variable-air-volume system in the interior zones of the building with heating coils for the exterior zones of the building. The heating coils may be in fan-coil units, induction units, baseboard heaters, or similarly operated units. Operators of these units are required to set space-conditioning control devices in accordance with one of two methods. The first alternative is similar to the basic deadband concept restricting room temperature to below 65°F in the heating season and above 80°F in the cooling season.

The operator may elect not to control the room temperature according to the heating-season/cooling-season formula prescribed. He may substitute instead the regulation that no heat is to be provided during the cooling season—that is the season during which the cooling system is operating—and that the cooling liquid is to be supplied to the cooling coils at temperatures above 55°F. During the heating season, the room dry-bulb temperature is to be kept at 65°F or less. This set of regulations eliminates reheat, thereby saving both heating and cooling, and maintains room dew points near the 67°F prescribed for other systems.

Operation of the HVAC system in accordance with these regulations may result in temperature differentials between interior and exterior zones of the building of as much as 15°F, as is discussed above. Perhaps a more serious problem will exist if the rooms near the chilled-water pump have the thermostats set at, for example, 72°F. Such units would demand most of the chilled water, thereby decreasing to an unacceptable level the flow of chilled water to the furthest units. Only if all rooms are operated in keeping with the summer limits will all rooms be treated equitably.

We recognize that the alternate method of complying with the regulations relies on the occupant's regulating the temperature and that such regulation may require the purchase of a room thermometer.

Some HVAC systems, such as constant-volume-with-reheat and variable-air-volume systems, contol the room temperature by heating the previously cooled air or changing the flow rate of air into a room in response to the cooling or heating need. Combinations of variable volume and reheat are also common. These systems are frequently called "all-air" systems. They may encompass the entire building or may be used in only parts of a building such as the interior zone. In most cases these systems have room thermostats. However, the room occumpant cannot readily determine whether the system is heating or cooling, nor what the optimal thermostat setting is for minimizing the HVAC system energy consumption. These systems require a more complicated and frequently less effective method for reducing energy consumption than by the setting of the temperature controls.

Operators of all-air systems are given the option under the regulations of following the basic deadband requirements. Where this method of compliance is not feasible, an alternative is available. The first requirement is that the air leaving the cooling coils be kept at temperatures above 60° F. As a result, the supply-air dew-point will be approximately 60° F (for example, 58° F). This value is consistent with the 67° F dew point restriction place on other systems. We anticipate that the operator will maintain the 60° F dew-point under all circumstances. Lowering this dew-point would cause severe over-cooling of interior zones, since reheat is prohibited. Raising of this dew-point would increase the humidity, thereby increasing human discomfort excessively. The 60° F coil exit temperature has been used by GSA in many buildings and has been found adequate if people adjust their clothing styles sufficiently.

The regulations also call for the setting of the room thermostats to 80° F during the cooling season. Again, this is consistent with the regulations on other systems. However, the heating sytem must be turned off during the cooling season to prevent operation of the reheat coils. As in the other systems, temperature differences of 15° F may result between the interior and exterior rooms if the occupants take no remedial actions such as keeping doors open and partially blocking registers. Keeping the cooling coil exit temperature above 60° F will lessen the temperature differential relative to what might occur if reheat were eliminated with the coil exit temperature held at the usual 50° F.

Variable-air-volume systems can adjust to the lack of reheat and the higher supply temperature out of the cooling coil by taking such actions as partially blocking the registers. With

variable-air-volume, exterior constant-air-flow-rate rooms may suffer somewhat with low temperatures. In some cases, the operator may want to replace the existing thermostats with the newer "deadband" thermostats to minimize the number of thermostat changes that must be made.

During the heating season, the heating coils may be activated, but the room thermostats must be set to 65°F. In the interior spaces, where there are no heating coils, the cooling restrictions apply. Some reheat in the exterior zones will occur under this part of the regulations since some of the rooms will call for reheat to 65°F.

Accuracy of Space-Conditioning Control Devices

The proposed regulations provide in § 490.17(b) that compliance may be determined by reading the set-point of the space-conditioning control device. To ensure that this measure will prove a reliable standard of compliance, proposed § 490.13 requires building operators to maintain such devices within reasonable tolerances of accuracy and proscribes intentional altering of the devices to produce inaccurate readings.

Temperature Control During Unoccupied Periods

The proposed regulations require in § 490.14 that, except as set forth below, heating and cooling systems must be shut off during unoccupied periods.

A building is considered occupied only if it is being used for its ordinary functions. If the building is occupied for cleaning purposes only, it is not considered occupied. Since building temperatures change slowly after the heating and cooling systems are shut off, there will be many hours during which the cleaning function may be performed in relative comfort. Many buildings are presently cleaned without benefit of heating and cooling system operation.

The proposal does allow the operation of the heating and cooling systems during unoccupied periods to prevent damage to contents of the buildings, for example to prevent spoilage of food or to keep the pipes from freezing.

The proposal divides the unoccupied period requirement into two parts. First, where the outdoor air dry-bulb temperature is greater than 50°F, there is a general prohibition on operation of the building's heating or cooling system. This requirement may be satisfied by turning off the circulating air or circulating water system, although the chillers may continue to operate. Second, where the outdoor air dry-bulb temperature is less than 50°F, limited operation of the heating system is allowed.

The simplest permissible approach under the proposed regulations is the "night-setback" procedure in which the room thermostats are set to 55°F during the unoccupied periods. In the many systems in which this is impractical (due for example to the numerous thermostats that might be involved) the regulation requires that the heated supply-air dry-bulb temperature be less than 100°F and the heating-water dry-bulb temperature be less than 120°F. These temperatures were chosen as being the minimum required to keep the room at 55°F.

We have recognized that to allow for reasonable comfort when the building is first occupied, the heating and cooling systems must be operated prior to occupancy. We therefore have defined the occupied period as beginning two hours before the period the building is utilized for its ordinary functions.

Portable Heaters and Ventilating Equipment

The use of portable heaters, such as radiant electrical heaters, heat lamps or other devices whose principal function at the time of operation is to produce space heating is prohibited by § 490.15 of the proposed regulations. Such heaters would clearly violate the intent of the energy conservation measures being enforced by these regulations. However, use of auxiliary heating is authorized at such times as use of energy for heating is otherwise permitted (*e.g.* where room temperatures are below 65° F) or when the building is unoccupied.

Use of ventilating fans or pump power is authorized at all times by § 490.16, even where the effect of bringing in outside air or circulating water is to lower temperatures below 80° F or raise temperatures above 65° F. Use of free-standing fans within rooms is also permitted at all times.

Measurement Techniques; Dry-Bulb Temperature

We recognized that dry-bulb temperatures within a room are not uniform, so we have allowed in § 490.17 of the regulations for various ways of measuring the room temperature. So long as one measurement technique results in compliance with a temperature restriction, the requirements of the regulations are satisfied. We have established the space-conditioning control device setting (thermostat, etc.) to be the principal temperature indicator, but we have also permitted the use of average room temperature as measured by the ASHRAE standards. We have required that the thermostate be kept in reasonable calibration, and deliberate tampering is considered a violation of the regulations. Measurement of dry-bulb temperature also is permitted by the regulations to be accomplished by placing a thermometer within 24 inches of the space-conditioning control device.

Dew-point temperature, relative humidity and wet-bulb temperature also can be determined, where applicable, by reading the set point of the space-conditioning control device, by reading a measurement instrument or by inference from the calculation of one of the other values. Dew-point, wet-bulb and relative humidity also may be measured in the same location as provided for determination of the dry-bulb temperature.

Alternate measurements that were considered included the extreme high or low temperature in a room. However, this easily could result in no saving in HVAC system energy consumption since measurements near the window or in the sun would seriously bias the result. We also considered using the extreme temperature of all of the work stations. Again, we rejected this measurement because of the difficulty in defining the work station and the possibility that such a vague definition could result in no saving in HVAC energy.

As another alternative, the average temperature could have been chosen to be the average temperature within a zone rather than within a room. Zones normally encompass more than one room but if the zones are properly defined, the temperature variations within a room will be the same as within a zone. However, many times partitions have been located so the zones do not encompass rooms with the same heating and cooling requirements resulting in significant temperature variations between rooms of a single zone. To allow for such a condition, the average temperature may be measured on an occupied-room-by-occupied-room basis. Normally, the room with the extreme temperature will govern the temperature control setting.

Although the humidity is prescribed in terms of the dew-point temperature, we have permitted the use of wet-bulb and relative humidity to determine the dew-point with the help of psychometric charts or tables.

Exemptions From Heating and Cooling Restrictions; Unheated Buildings

Some buildings, such as cattle barns, are basically unheated and it is intended

that they not be governed by these regulations. We have defined as "unheated" in § 490.18(a)(1) those buildings consuming less than 11 watts per square meter (3.5 Btu per hour per square foot) of gross floor space for all uses combined, including heating and cooling on the coldest and hottest days of the year, respectively. In most buildings, a five to ten degree temperature difference between indoors and outdoors can be maintained with this amount of heat input. Buildings are also exempted from these regulations if they are neither heated nor cooled, since they already comply with the requirement that no energy be used to heat or cool if the room temperature is in the deadband range.

Cooling and Heat-Recovery With Systems Requiring Primarily Fan Power; Use of Wasted Energy

Some systems, such as the economizer cycle and evaporative cooling, do not require the operation of a compressor or heater-driven absorption machine to produce cooling. Instead, fans are used to circulate air and pumps are used to circulate unrefrigerated cold water. The proposed regulations provide an exemption in § 490.18(a)(2) for buildings using such systems. This exemption permits operation of the fans to circulate air and pumps to circulate a liquid and thereby effect the energy transfer. If the compressor or absorption unit must operate, even if only for part of the load, no exemption is provided. Fans and pumps are similarly permitted for the operation of heat-recovery systems.

Buildings with HVAC systems capable of using energy that otherwise would be wasted also are exempted from the requirements of the regulations by § 490.18(a)(3), but only when the otherwise wasted energy provides the only source of cooling or heating energy at the time of HVAC system operation.

Solar Energy

To be consistent with the exemption for energy-recovery systems, we have also exempted in § 490.18(a)(4) heating or cooling loads that are satisfied entirely by solar energy. Since the solar system may operate in conjunction with a non-solar system, such as in solar-assisted heat pumps, there will be cases in which it is impossible to determine which part of the load is met by solar. Therefore, we have stated that the solar-energy exemption applies only when the non-solar system is not operating so it is clear that solar energy is the only source of heating or cooling energy.

Building Precooling

In some cases, precooling of a building or portion of a building is necessary because the HVAC system is unable to maintain comfort under maximum load conditions. For example, many theatres require subcooling just before occupancy. As the occupied period progresses, the room becomes warmer and warmer. If properly designed, the room will reach the limit of comfort at the end of the occupancy period. For systems such as theater systems, operation of the HVAC system is permitted by § 490.18(b) before occupancy to bring the temperature as low as necessary to maintain the requirements of the regulations during the occupancy period.

As an alternative to this part of the regulation, consideration was given to exempting these systems entirely. However, it was feared that all building operators may claim the exemption on the basis of the anticipated maximum load (to be conservative). Therefore, no building would be governed by these regulations and no HVAC energy would be saved.

Effectiveness of the Regulations in Reducing Energy Consumption

We are particularly interested in learning of those cases in which the proposed regulations are expected to increase the HVAC energy consumption. Although we have designed the regulations to include the common HVAC systems and many of their variations, there are more systems in existence than could be considered in minute detail. We believe that the regulations have been written to encompass every practical HVAC system.

We do recognize that under these regulations some of the systems will operate so as to result in more discomfort than others, although we have attempted to keep the discomfort as uniform as possible. In addition, we recognize that the effectiveness of the regulations in reducing HVAC energy consumption is not always precisely measurable. However, we believe that the regulations will be sufficient to reduce the national HVAC energy consumption by as much as 10%, although no such goal was established. For the nine months during which these regulations would be effective, the objective is to minimize the HVAC energy consumption with the constraint of keeping the occupant in a workable environment.

C. *Domestic Hot Water*

DOE has prescribed 105°F as the maximum allowable temperature for domestic hot water, defined as water used in covered buildings for personal hygiene or general cleaning. In some cases, temperature control devices are incapable of controlling to this low temperature and the regulations would permit use of the lowest control setting as an alternative. The domestic hot water temperature is required to be measured at the tap closest to the water heater, by a thermometer in the line, or by the controller in the hot water storage tank.

Since approximately 50 percent of the energy required to deliver hot water to faucets in used in keeping recirculating pipes hot, the proposed regulation requires that, were practicable, the recirculation pump be shut off during periods when the building is not occupied.

The use of instantaneous heaters to raise the water temperature to 105°F is permitted, but use of instantaneous heaters to raise the water temperature above 105°F is not.

Normally, water temperatures between 80°F and 100°F are used for washing hands, so the 105°F maximum temperature will be adequate to meet personal hygiene needs.

Dishwashing and other sanitizing purposes for which applicable health codes require hot water temperatures in excess of 105°F are exempted from this proposed regulation. DOE invites comments as to whether this exemption in the proposed regulation is sufficient.

D. *Exemptions*

In formulating the provisions relating to general exemptions for classes of uses within covered buildings, DOE has sought to carry out the Plan's objectives of achieving significant and immediate reduction in energy demand while avoiding severe economic loss or serious hazards to health. Thus, the exemptions in the proposed regulations focus on these areas; no exemptions based solely on personal comfort are included. The proposed general exemption classifications are intended to include substantially all of the buildings or portions of buildings which should, consistent with the purposes of the Plan, be exempted from its operation. While provision is made in proposed § 490.32 for limited exceptions for individual owners, operators and other persons in a covered building, reliance on the specific exception procedure is discouraged.

Where a portion of a covered building qualifies for an exemption under these proposed regulations, the building operator is authorized to claim exemption for only as much of the covered building as is necessary to exempt the relevant sections. In some instances this may result in exemption for the entire building. In keeping with the Plan's purpose of mandatory energy conservation, § 490.34 requires operators of buildings qualifying for exemptions to maintain temperature levels which will result in the maximum practicable energy savings.

Classes for Which General Exemptions Are Provided

Proposed § 490.31(a)(1) provides a general exemption based on special equipment performance requirements. This exemption is intended to apply to spaces within covered buildings housing special equipment, such as computer installations, which require specific temperature and humidity controls more stringent than those prescribed in the proposed regulations. The special equipment performance requirement must be precisely defined in a manufacturer's warranty, service manual, or in a standard equipment service contract, whether or not the contract is in force with respect to the equipment for which an exemption is claimed. Reference to temperature and humidity requirements in the standard service contract is intended to permit exemption where the user provides the maintenance service. Under § 490.31(a)(2), DOE proposes to exempt spaces in covered buildings which house manufacturing, industrial or commercial processes which could not be carried on without exemption from the temperature restrictions. Examples of such processes include the manufacturing and handling of explosives, certain printing processes and electronics manufacturing.

Proposed § 490.31(a)(3) is intended to avoid health hazards where certain temperature and humidity levels are required for the proper storage and handling of food and other agricultural commodities. By way of illustration, this section would exempt supermarkets and grocery stores where temperature and humidity levels other than those mandated in the regulations are required to preserve produce or for the proper refrigeration of perishable items on open shelf units. Warehouses which store food also might be exempted under this section if food stored therein would be affected by higher or lower temperatures and humidity. Restaurant dining rooms would not be included within this proposed exemption.

Section 490.31(a)(4) would exempt spaces where special environmental conditions are required to protect animal or plant life or materials or processes necessary for the operation of a business. Included under this section are, for example, laboratories requiring a specially controlled environment, greenhouses or other horticultural facilities, zoos, museums and art galleries where preservation of art works would require specific temperature and humidity levels. This exemption is not intended to allow, for example, an exemption for an office where the occupant keeps decorative plants.

Procedure for Securing General Exemptions

Under proposed §490.31(b), general exemptions will be secured by self-certification. In drafting this section, DOE considered whether to require persons to make application to DOE for a formal determination of exemption. This alternative was rejected in favor of self-certification since the temporary nature of the Plan makes administration of a massive application process practically impossible. DOE will prepare and distribute, either directly or through state and local government agencies and private trade associations, a form entitled "Certificate of Exemption", together with instructions on its use. A building operator whose building falls within one of the general exemption classifications will be required to complete and post in a prominent location in the building one copy of the Certificate, describing all the areas within the building for which a general exemption has been claimed. A second copy of the Certificate must be submitted to DOE in accordance with instructions accompanying the form, samples of which will be reviewed for compliance. Certification of buildings or spaces for general exemptions to which they are not entitled would be contrary to these proposed regulations. However, proposed §490.31(e) provides that an operator, other than an operator who has claimed an exemption, would not be in violation as a result of acting in reliance on what is subsequently determined to be an invalid exemption. For example, a building manager who fixes temperatures at levels which violate the regulations in reliance on the tenant's invalid claim of exemption would not be subject to liability.

Specific Exceptions

Proposed § 490.32 under which individual building owners, operators or tenants might apply for special exceptions, is intended to deal only with unusual situations involving unanticipated and severe economic or health impacts. DOE does not intend to permit individual exceptions merely to alleviate personal discomfort. This section incorporates by reference existing DOE exceptions and appeals procedures, which will be utilized in processing applications for special exceptions from these regulations. In administering these procedures, DOE will rely upon its extensive experience in applying hardship standards. DOE is considering whether to provide for the processing of these applications at the regional level rather than in Washington.

State Exemptions

Proposed § 490.35 provides that a state may seek for itself or a political subdivision exemption from application of mandatory temperature restrictions within the state during a period for which the President or his delegate determines a comparable state program is in effect. According to the Plan, "comparable program" means a mandatory program which "deals with the same subject matter" and which "conserves at least as much energy" in the state or political subdivision as would be expected to be conserved by implementation of the Plan.

In proposed § 490.35(d), DOE has construed the phrase "deals with the same subject matter" to mean that a comparable state plan must deal with building temperature and domestic hot water restrictions. Thus, a state plan which mandates only alternative energy efficiency measures or deals with a percentage reduction in energy use without temperature restrictions would not qualify as a comparable state plan.

Proposed § 490.35(b) requires states applying for exemption to submit a comparison of energy savings expected to result in the state from compliance with the Plan and estimated energy savings under the proposed comparable program, using a consistent methodology, to demonstrate equivalent energy savings. DOE invites public comment on its selection of this formula for demonstration of equivalency in energy savings.

E. *General Provisions; Joint and Several Liability*

The proposed regulations provide in § 490.41 that owners and operators shall be jointly and severally liable for the performance of operator responsibilities where an agency relationship exists between the owner and operator. The purpose of imposing joint and several

liability is to ensure that all persons involved in controlling the heating and cooling systems of a covered building cooperate in achieving the restrictions imposed in Subparts B and C of the regulations.

The limitation on joint liability for owners to situations where an agency relationship exists between an owner and operator makes clear our intent not to hold liable owners who have absolutely no control over building operations. However, to the extent that there is ability to control heating and cooling operations on the part of an owner or an operator there is responsibility to comply with the restrictions of these regulations.

Reporting Requirement

Section 490.42 of the regulations provides DOE with the authority to require fuel distributors and public utilities to provide any necessary information on customers. This authority may be useful for enforcement purposes to see if energy use by a particular building has decreased or for auditing the effectiveness of the regulations generally in saving energy.

Self-Certification

An essential element of the enforcement effort with respect to these regulations is self-certification by building owners that their building complies with the requirements of the regulation. This certification would be in the form of a "Building Owner's Certificate" which would be required to be posted in a prominent location within the building. The certificates will be prepared by DOE and be made available, along with instructions, at convenient locations throughout the country. Certificates may also be obtained by writing to DOE at the address indicated in § 490.43(c) of the proposed regulations.

Under the provisions of the Plan and the proposed regulations the requirement for posting a "Building Owner's Certificate" would become effective within 30 days of the effective date of the final regulations.

F. *Administrative Procedures*

Standby Conservation Plan No. 2 notes that "it is contemplated that, where DOE retains enforcement authority, enforcement actions would follow procedures used by DOE to enforce other programs for which it has responsibility." After further consideration of the temporary, emergency nature of the Plan, the DOE has prepared procedures for inclusion in its proposed regulations which alter and modify its other existing enforcement procedures in certain respects. In general, DOE has sought, in devising specific administrative procedures applicable to enforcement of the Plan, to furnish adequate notice and opportunity for response to persons who are identified as alleged violators with a minimum of formality and expense, yet provide for adequate joinder of issues and the development of a record suitable for judicial review; to afford additional opportunities within the administrative process for the recipient of a violation order to apply, where appropriate, for adjustment of the effect of the order by means of the devices of a modification or rescission or a stay; and to insure the early finality of agency action, not only by generally limiting procedures but also by prescribing short time limits, so that the opportunity for judicial review will not be unduly delayed, in light of the reality that the ensuing litigation process may be protracted.

Unless the DOE determines that an alternative enforcement method is appropriate, an action will commence with the issuance of a Notice of Violation in which a finding of violation is made. The person to whom the notice was issued has 10 business days to reply in writing unless an extension is granted for good cause shown. The contents of the reply must satisfy specified requirements. The replying party may request an informal conference. Failure to file a reply constitutes an admission of the accuracy of the contents of the Notice of Violation, whereupon DOE may issue a Violation Order. After consideration of the information received during the proceeding, the DOE may decide to adopt the findings and conclusions; or to refrain from issuing a Violation Order; or to withdraw the Notice of Violation for further modification or rescission. A Violation Order is a final agency order subject to judicial review.

In exceptional circumstances which meet sepcified requirements, the DOE may issue a Violation Order for Immediate Compliance without issuing a Notice of Violation.

The recipient of a Violation Order or Violation Order for Immediate Compliance may apply to have the order modified or rescinded on grounds that significantly changed circumstances exist. Under this procedure the DOE will only entertain an application founded upon an allegation of changed circumstances; it is not intended to serve as an administrative means of seeking general appellate review of an order. The purpose of the modification or rescission procedure is to avoid needless potential court litigation where an order may no longer be sustainable on the grounds previously found to support it.

In extraordinary circumstances the recipient of an order may qualify for the stay of an order pending review. Procedures which specify the grounds for eligibility for a stay are set out in the regulations.

The DOE may at any time resolve an outstanding compliance investigation or proceeding with a Consent Order.

Noting in these regulations is in derogation of DOE's existing right to seek direct enforcement of the provisions of the Plan in court at any time in coordination with the Department of Justice.

G. *Investigations, Violations, Sanctions and Judicial Actions.*

This Subpart is patterned closely after Subpart P of CFR Title 10, Part 205 and incorporates the penalty limits prescribed in Section 525 of the EPCA.

H. *Additional Matters; Delegation to States*

Section 9(c) of the Emergency Building Temperature Restrictions Plan authorized DOE to delegate to the Governors of the states all or any portion of its authority to implement, administer, monitor and enforce the Plan. DOE has decided that Implementation of the Plan with respect to Federally-owned and operated buildings will be undertaken by the Federal Government. But as to privately-owned buildings and state-owned and operated buildings, DOE has determined that successful implementation of the Plan will require the active cooperation of state and local governments. Their power to educate and persuade their citizens is needed to acquaint the public with the Plan's requirements, its emergency conservation goals and the necessity for voluntary compliance. Trained state and local health and building inspectors, familiar with local conditions and local buildings, can play a crucial role in the Plan's enforcement. Therefore, DOE will delegate to each state Governor who requests such a delegation and through the states to local governments, a substantial portion of its authority under the Plan.

In particular, DOE will delegate the following authorities and functions: (1) public education and outreach to inform all affected building owners and operators of their obligations under DOE regulations; (2) distribution to building owners and operators of forms and instructions prepared by DOE and

described in these proposed regulations; (3) response to questions from the public on compliance requirements and use of the forms; (4) selective inspection of buildings for compliance; and (5) compliance inspection in response to complaints of violations received from the public. While state and local inspectors will be relied upon to uncover violations, the enforcement of civil penalties under the Plan will be conducted according to Federal administrative and judicial procedures, described in Subparts F and G of these propose regulations.

DOE will enter into agreements with each state to which a delegation is made. The agreements will set forth delegated implementation responsibilities and will encompass, where appropriate, subsidiary agreements with local governments to utilize their existing organizations and other resources. The agreements will provide for the payment of Federal funds to meet the costs of state and local government activities under the agreements.

III. Comment Procedures

A. *Written Comments*

You are invited to participate in this rulemaking by submitting views, data or arguments with respect to the proposal set forth in this Notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside envelope and on documents submitted with the designation "Emergency Building Temperature Restrictions." Fifty copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Comments should be received by June 22, 1979, 4:30 p.m. in order to be considered.

Any information or data you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. *Public Hearings*

Hearings: Public hearings will be held in five cities, beginning at 9:00 a.m. local time on the dates and at locations specified below:

City	Hearing date	Requests to speak to be received by 4:30 p.m. e.s.t.	Hearing location
San Francisco	June 14	June 12	Holiday Inn, 1500 Van Ness Avenue, Crystal Room, San Francisco, Calif.
Chicago	June 14	June 12	Essex Inn, Buckingham Park East Room, 800 South Michigan Avenue, Chicago, Ill.
Dallas	June 18	June 15	Dunfrey's Hotel, 3800 West Northwest Highway, Dallas, Tex.
New York	June 18	June 15	Doral Inn, 541 Lexington Avenue, New York, N.Y
Washington, D.C.	June 20	June 19	National Guard Memorial, 1 Massachusetts Avenue, N.E., Washington, D.C..

2. Requesting Opportunity for Oral Statement. The times and places for the hearings are indicated in the table above. Requests to speak should be directed as follows:

Washington hearing: Margaret Sibley, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Room 2221C, Washington, D.C. 20585, (202) 376–1651; San Francisco hearing: External Affairs, 111 Pine Street, 3rd Floor, San Francisco, California 94111, (415) 556–4953; Dallas Hearing: Grace Morrison, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235, (214) 749–7621; Chicago hearing: Jack Holzman, 175 W. Jackson Blvd., Room A–333, Chicago, Illinois 60604, (312) 353–5761; New York hearing: Karen Ichiuji, 26 Federal Plaza, Room 3206, New York, New York 10007, (212) 264–4608.

If necessary to present all testimony, the hearing will be continued to 9:00 a.m. of the next business day following the first day of the hearing.

Any person may make a written or telephone request for an opportunity to make an oral presentation at the hearing. You should provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified by DOE before 4:30 p.m. on:

June 12 for San Francisco and Chicago hearings.

June 15 for Dallas and New York hearings.

June 19 for Washington, D.C. hearings.

You must submit 100 copies of your statement, or as many copies as possible if fewer than 100, to be received by DOE before 4:30 p.m. on the dates set forth in this paragraph at the address given above for requests to speak, or you must bring the copies of your statement to the hearing location on the date of the hearing.

3. Conduct of the Hearing. We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing, which will not be adjudicative in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing. Such questions should be submitted to the address indicated above for requests to speak before 4:30 p.m. on the last working day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In any case, the presiding officer will determine whether time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing, including the transcripts, will be retained and made available for inspection at the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel the hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearing. However, it is not

possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend the hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

IV. Additional Matters

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*), DOE has given notice to the Administrator of the Environmental Protection Agency that because of the emergency situation described below, it has waived his review of these proposed regulations for a period of 14 days. A copy of this Notice has been submitted to the Administrator for his review.

In view of the emergency nature of this rulemaking the Department has not been able to complete its environmental review of the effects of this rulemaking under the National Environmental Policy Act (42 U.S.C. 4331). This review will be completed and considered by the Department in connection with its further action with regard to this rulemaking.

In light of DOE's emergency finding, described more fully below, of a severe national energy supply interruption and the necessity for prompt enforcement of mandatory conservation measures, Deputy Secretary John F. O'Leary determined on May 30, 1979, that this proposed rulemaking is not subject to the provisions of Executive Order No. 12044 on Improving Government Regulations (43 FR 12661, March 24, 1978), under section 6 of that Executive Order which excepts regulations issued in response to an emergency (see Appendix to this rule).

The emergency nature of the circumstances which surround implementation of the Plan, requires that the public comment period be shortened to less than 30 days. Although section 501(b) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*) (DOE Act) and section 523(a) of the EPCA require a 30-day public comment period prior to the adoption of regulations such as those here proposed, the 30-day period may be reduced under section 501(e) of the DOE Act where the Secretary finds strict compliance with the 30-day period is "likely to cause serious harm or injury to the public health, safety, or welfare." Under section 523(a) of the EPCA the comment period may be reduced to fewer than 30 but more than 10 days where strict compliance would "seriously impair the operation of the program" to which the regulation relates.

DOE finds that to comply with the requirement of a 30-day public comment period is likely to cause serious harm to the public health, safety and welfare and would seriously impair the effective implementation of the building temperature restrictions mandated by the Plan. In its May 1979 "Report to the President on the Energy Supply Interruption," DOE has concluded that continuing reduced levels of world crude oil production have resulted in a severe national energy supply shortage which is beginning to have a major adverse economic impact on the national safety and the national economy. The cumulative net shortfall of U.S. refinery stocks has increased to 80 million barrels. DOE finds that prompt enforcement of mandatory conservation measures, such as the building temperature restrictions imposed by the Plan, is required to help meet the shortage. To delay final promulgation of these regulations would impair effective implementation of the Plan by postponing enforcement until the cooling season is well underway. To maximize the energy savings expected to result from the Plan, and the corresponding benefits to the Nation, enforcement must begin as close to the start of the cooling season as possible.

In this connection it should be noted that the current petroleum product shortages in the United States are principally with respect to gasoline and distillates, including diesel fuel. Stocks of distillates are significantly below the levels of the comparable period of 1978 and DOE is seriously concerned that unless stocks are built up, adequate amounts of heating oil may not be available for the heating season. These regulations should directly assist in this regard by reducing electricity demand. In the cooling season, most peak load air conditioning demand is met by distillate. By reducing this demand, the Plan and the regulations will directly address the distillate shortage situation.

Section 404(a) of the DOE Act, relating to referral of certain proposed rules to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule might significantly affect a function within the Commission's jurisdiction, is not applicable to this proposed rulemaking.

(Federal Energy Administration Act of 1974, 15 U.S.C. 761 *et seq.*; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions, 44 FR 12911 (March 8, 1979)).

In consideration of the foregoing, Part 490 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be adopted as set forth below.

Issued in Washington, D.C., on May 30, 1979.

Omi Walden,

Assistant Secretary, Conservation and Solar Applications.

10 CFR Chapter II is amended by adding Part 490, to read as follows:

PART 490—EMERGENCY BUILDING TEMPERATURE RESTRICTIONS

Subpart A—Scope and Definitions

Sec.

490.1 Scope.
490.2 Effective date.
490.3 Authority to contract or delegate.
490.4 Authority to issue orders and guidelines.
490.5 Definitions.

Subpart B—Heating and Cooling Restrictions

490.11 HVAC systems without capability for simultaneous heating and cooling.
490.12 HVAC systems with capability for simultaneous heating and cooling.
490.13 Requirement for accuracy of space-conditioning control devices.
490.14 Regulation of building temperatures during unoccupied periods.
490.15 Auxiliary heaters.
490.16 Use of ventilating equipment.
490.17 Measurement techniques.
490.18 Exemptions from heating and cooling restrictions.

Subpart C—Domestic Hot Water

490.21 Regulation of hot water controls.
490.22 Calculation of domestic hot water temperature.
490.23 Maintenance of hot water control devices.
490.24 Exemption from hot water restriction.

Subpart D—Exemptions

490.31 General exemptions.
490.32 Specific exceptions.
490.33 Limitation of exceptions or exemptions.
490.34 Scope of exceptions or exemptions.
490.35 Exemption procedures for states.

Subpart E—General Provisions

490.41 Joint and several liability.
490.42 Reporting requirement.
490.43 Self-Certification.

Subpart F—Administrative Procedures

490.51 Purpose and scope.
490.52 Notice of violation.
490.53 Violation order.
490.54 Violation order for immediate compliance.
490.55 Modification or rescission.
490.56 Stay pending judicial review.
490.57 Consent order.
490.58 Remedies.

Subpart G—Investigations, Violations, Sanctions, and Judicial Actions

Sec.
490.61 Investigations.
490.62 Violations.
490.63 Sanctions.
490.64 Injunctions.

Authority: Federal Energy Administration Act of 1974, 15 U.S.C. 761 *et seq.;* Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions, 44 FR 12911 (March 8, 1979).

Subpart A—Scope and Definitions

§ 490.1 Scope.

Except as otherwise provided in this Part, this Part applies to covered buildings in each state or political subdivision thereof, and shall supercede any law of any state or political subdivision thereof to the extent such law is inconsistent with these regulations or any guidelines or orders issued pursuant thereto.

§ 490.2 Effective date.

These regulations shall become effective on July 1, 1979, or such other date as specified by the President as the effective date of Standby Conservation Plan No. 2 (Emergency Building Temperature Restrictions) (44 FR 12906, March 8, 1979).

§ 490.3 Authority to contract or delegate.

DOE may delegate or contract for the carrying out of all or any part of the functions under this Part.

§ 490.4 Authority to issue orders and guidelines.

DOE may issue such orders and guidelines, and may make such adjustments, as are necessary to administer and implement the provisions of these regulations.

§ 490.5 Definitions.

(a) "ASHRAE" means American Society of Heating, Refrigerating and Airconditioning Engineers, Inc.

(b) "Capability for simultaneous heating and cooling" means an HVAC system that can supply heating to one part of the space conditioning equipment while supplying cooling to another, including but not limited to dual-duct, reheat, recool, multizone fans, fan-coil units in combination with central air and induction units in combination with central air.

(c) "Covered building" means every building or portion of a building, but excludes residential buildings, hotels and other lodging, facilities, hospitals and other health care facilities, elementary schools, nursery schools and day-care centers, and such other buildings and facilities as the Secretary may by rule determine: *Provided,* That to the extent that the non-sleeping facilities of a hotel, motel or other lodging facility have space-conditioning control devices separate from the sleeping facilities, they are not excluded from the definition.

(d) "Dew point temperature" means the temperature of air at which water vapor begins to condense. At the dew point, relative humidity is 100 per cent.

(e) "DOE" means the Department of Energy.

(f) "Domestic hot water" means hot water which is intended for use in covered buildings for personal hygiene or general cleaning.

(g) "Dry-bulb temperature" means the temperature of air as measured by a dry-bulb, or ordinary, thermometer, which directly measures air temperature.

(h) "Fuel distributor" means any person who delivers oil or other fuel for use in a covered building.

(i) "Humidity" means a measure of the water-vapor content of air.

(j) "HVAC" means Heating, Ventilating and Air Conditioning.

(k) "HVAC System" means a system that provides either collectively or individually the processes of comfort heating, ventilating and/or air conditioning within or associated with a building.

(l) "Hospital and health care facility" means a building such as a general hospital, tuberculosis hospital or any other type of hospital, clinic, nursing or convalescent home, hospice or other facility duly authorized to provide hospital or health care services under the laws of the state in which the institution or facility is located.

(m) "Hotel or other lodging facility" means a building where sleeping and lodging accommodations are provided to the public in the ordinary course of business.

(n) "Occupied period" means that time of the day or night beginning two hours before, and ending one half hour after the time which the covered building or portion thereof is used for its ordinary function or functions, but not including such service functions as cleaning and maintenance.

(o) "Operator" means any person, whether lessee, sublessee or assignee, agent or other person, whether or not in physical possession of a covered building, who has control, either directly or indirectly through an agent, of heating, cooling or hot water equipment servicing the covered building.

(p) "Owner" means any person, whether or not in physical possession of a covered building, in whom is vested legal title, and who has control, either directly or indirectly through an agent, of heating, cooling or hot water equipment servicing the covered building.

(q) "Person" means any individual, corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, the United States or any State or political subdivision thereof, the District of Columbia, Puerto Rico, any U.S. territory or possession, or any agency of the United States or any state or political subdivision thereof, or any other organization or institution.

(r) "Public utility" means a publicly or privately owned and operated utility which is engaged in the sale of electric power or natural gas to end-users.

(s) "Relative humidity" means the ratio of the amount of water vapor in the air at a specific temperature to the maximum water vapor capacity of the air at that temperature.

(t) "Residential building" means any building used for residential purposes but does not include any portion of such building used for non-residential purposes and which has separate heating, or cooling space-conditioning control devices or hot water termperature control devices.

(u) "Room" means that portion of the interior space which is contained within the exterior surfaces of a building and which is conditioned directly or indirectly by an energy using system.

(v) "Secretary" means the Secretary of the Department of Energy.

(w) "Space-conditioning control device" means a device for directly or indirectly controlling the room termperature and/or humidity by means of the HVAC system.

(x) "Special equipment" means equipment for which carefully controlled temperature levels are necessary for proper operation or maintenance.

(y) "Temperature control device" means a thermostat or any other device used to regulate the operation of heating or cooling equipment or a hot water heater.

(z) "United States" means any state, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(aa) "Unoccupied" means those periods of the day or night other than the occupied period.

(bb) "Wet-bulb temperature" means the temperature of air as measured by a wet-bulb thermometer, which is a thermometer having the bulk covered

with a cloth, usually muslin, that is saturated with water.

Subpart B—Heating and Cooling Restrictions

§ 490.11 HVAC systems without capability for simultaneous heating and cooling.

In covered buildings with HVAC systems without the capability for simultaneously heating and cooling the building:

(a) No operator shall set space-conditioning control devices so that energy is consumed to raise the room dry-bulb temperature above 65°F;

(b) No operator shall set space-conditioning control devices so that energy is consumed to lower the room dry-bulb temperature below 80°F: *Provided,* That energy may be consumed to lower the room dry-bulb temperature below 80°F to the extent necessary to lower the room dew-point temperature to 67°F.

§ 490.12 HVAC systems with capability for simultaneous heating and cooling.

In covered buildings with HVAC systems capable of simultaneous heating and cooling, operators shall set space-conditioning control devices in accordance with the following requirements:

(a)(1) Except as otherwise provided in this section, no operator shall set space-conditioning control devices so that energy is consumed to raise the room dry-bulb temperature above 65°F.

(2) Except as otherwise provided in this section, no operator shall set space-conditioning control devices so that energy is consumed to lower the room dry-bulb temperature below 80°F: *Provided,* That energy may be consumed to lower the room dry-bulb temperature below 80°F to the extent necessary to lower the room dew-point temperature to 67°F;

(b)(1) Operators of fan-coil, induction, baseboard or similarly operated units shall set space-conditioning control devices in accordance with one of the two following methods:

(i) So that no energy is consumed to raise the room dry-bulb temperature above 65°F in the heating season or lower the room dry-bulb temperature below 80°F in the cooling season;

(ii) So that: (A) no heat is provided to the heating coil during the cooling season; (B) no liquid coolant is provided to the cooling coil at coolant temperatures below 55°F; and (C) the room dry-bulb temperature will be 65°F or less in the heating season.

(c) Operators of heat-pump systems shall set space-conditioning control devices in accordance with the requirements of paragraph (b)(1)(i).

(d) In lieu of complying with the requirements of paragraph (a), operators of HVAC systems in which the room temperature is controlled by the supply air temperature or volume ("all-air" systems, including those with reheat) may set space-conditioning control devices so that:

(1) The temperature of the air leaving the cooling coils is 60°F or greater;

(2) During the cooling season, the heating coil is turned off and the space-conditioning control device is set to 80°F; and

(3) During the heating season, if the heating coil is turned on, the space-conditioning control device is set to 65°F.

§ 490.13 Requirement for accuracy of space-conditioning control devices.

(a) The operator of a covered building shall maintain space-conditioning control devices within reasonable tolerances of accuracy.

(b) No person may alter a space-conditioning control device with the intent of having that device function inaccurately.

§ 490.14 Regulation of building temperatures during unoccupied periods.

(a) During periods any covered building is unoccupied eight hours or more before the next normal occupied period:

(1) The heating system for that building shall not be operated if the outdoor air dry-bulb temperature is greater than 50°F, and the cooling system for that building shall not be operated. The requirements of this subsection may be satisfied by turning off the circulating air or circulating water system.

(2) If the outdoor air dry-bulb temperature is less than 50°F, the space-conditioning control devices for the heating system for that building shall be set such that one of the following results:

(i) The room dry-bulb temperature is less than 55°F.

(ii) The heated supply-air dry-bulb temperature is less than 100°F.

(iii) The heating-water dry-bulb temperature is less than 120°F.

(3) Notwithstanding the requirements of this section, HVAC system operation during unoccupied periods is permitted to the extent necessary to prevent damage to the covered building or its contents.

§ 490.15 Auxiliary heaters.

No auxiliary heating devices such as portable electric heaters, heat lamps or other devices whose principal function at the time of operation is to produce space heating may be operated except at such times that use of energy for heating purposes is authorized under the other sections of this Subpart or when the covered building is unoccupied.

§ 490.16 Use of ventilating equipment.

Nothing in this Subpart shall be deemed to prohibit the use of ventilating fan or pump power to heat a building to a dry-bulb temperature above 65°F or to cool a building to a dry-bulb temperature below 80°F.

§ 490.17 Measurement techniques.

(a) Where a space-conditioning control device controls the temperature for more than one room, the measurement may be taken in the room containing the device or any other room controlled by that device.

(b) Except as otherwise provided in this section, compliance with the requirements of this Subpart shall be determined by reading the set-point of the space-conditioning control device which controls the temperature for the room.

(c) Any of the following methods for measuring dry-bulb temperature, dew-point temperature, relative humidity and wet-bulb temperature may be utilized in lieu of a reading of the set-point on the space-conditioning control device. An operator shall be deemed to have complied with any temperature or humidity requirement of this Subpart so long as any one measurement technique indicates compliance with the relevant temperature or humidity requirement.

(1) Dry-bulb temperature may be measured by:

(i) A thermometer placed within 24 inches of the space-conditioning control device.

(ii) The average of several thermometer readings taken in accordance with ASHRAE Standard 55–74, "Thermoenvironmental conditions for human occupancy."

(2) Dew-point temperature may be measured by:

(i) Observing the temperature of a glass at which condensation first occurs while cooling the glass;

(ii) By a dew-point indicating instrument;

(iii) By inference from the wet-bulb temperature or the relative humidity.

(3) The relative humidity may be measured by:

(i) A humidity-indicating instrument (hygrometer);

(ii) By inference from the dew-point or wet-bulb temperature.

(4) The wet-bulb temperature may be measured by:

(i) A wet-bulb-temperature-indicating instrument (psychrometer);

(ii) By inference from the dew-point temperature or relative humidity measurement.

(5) The dew-point temperature, relative humidity and wet-bulb temperature may be measured within 24 inches of the humidity space-conditioning control device if located in the room, or in the same locations as used in the measurement of the dry-bulb temperature.

§ 490.18 Exemptions from heating and cooling restrictions.

(a) The requirements of this Subpart shall not apply to:

(1) Covered buildings or portions thereof which are neither heated nor cooled or whose peak design rate of energy usage for all purposes is less than 11 watts per square meter or 3.5 Btu per hour per square foot of gross floor area.

(2) Buildings containing HVAC systems capable of using outdoor air or evaporation of water for cooling effect without operation of a vapor compression or absorption-refrigeration system, but this exemption applies only with respect to cooling, and only when the outdoor air and/or evaporation effect provides the only source for cooling.

(3) Buildings containing HVAC systems capable of using energy that otherwise would be wasted, but only when the otherwise wasted energy provides the only source of heating or cooling energy.

(4) Buildings containing HVAC systems capable of using solar energy, but only when solar energy provides the only source of heating or cooling energy.

(b) For buildings where the capacity of the HVAC system is insufficient to maintain the building at the minimum temperature levels for cooling authorized by this regulation, the operator of said building may cool the building to a temperature level below 80°F: *Provided*, that said reduced temperature level may only be maintained for the period of time necessary so that the temperature will reach the minimum level permitted by this regulation during the building's occupied period.

Subpart C—Domestic Hot Water

§ 490.21 Regulation of hot water controls.

(a) The operator of a covered building shall set hot water temperature control devices so that the temperature of domestic hot water in such covered building does not exceed the greater of:

(1) 105°F.

(2) the lowest setting on the hot water control thermostat.

(b) The operator shall, where practicable, shut off domestic hot water circulating pumps during periods when a covered building is to be unoccupied for more than eight hours when such actions will not cause damage to the building, its systems, or internal processes or articles.

§ 490.22 Calculation of domestic hot water temperature.

(a) The temperature of domestic hot water shall be taken as the domestic hot water storage tank temperature measured in the hot water supply line, at the tank temperature control point, or if not measureable at either point then at the tap nearest the tank discharge point.

§ 490.23 Maintenance of hot water temperature control devices.

(a) The operator of a covered building shall maintain all domestic hot water temperature control devices in that building within reasonable tolerances of accuracy.

(b) No person may alter a hot water temperature control device with the intent of having that device function inaccurately.

§ 490.24 Exemption from hot water restrictions.

(a) The provisions of this Subpart shall not apply in a covered building where the domestic hot water heating equipment also provides hot water for manufacturing, industrial or commercial processes and such processes require hot water temperatures in excess of those prescribed in this Subpart.

(b) The provisions of this Subpart shall not apply in a covered building where domestic hot water is the only source available for dishwashing or other purposes in such covered building and state or local health regulations prescribe a minimum temperature level above 105°F for dishwashing or such other purposes. Domestic hot water control devices shall be set so as not to exceed the minimum level required by the state or local health regulations.

(c) The provisions of this Subpart shall not apply to combination domestic water heating/space heating boilers during the heating season.

(d) The provisions of this Subpart shall not apply at such times that solar energy provides the only source for domestic hot water heating energy. At such times that a hot water heating system using a non-solar energy source is being operated in conjunction with solar energy, this exemption shall not apply.

Subpart D—Exemptions

§ 490.31 General exemptions.

(a) In addition to the exemptions provided in other subparts, and subject to the limitations of this Subpart, the following exemptions from the requirements of Subparts B and C are available to any person in accordance with the provisions of this section:

(1) Where a "manufacturer's warranty", service manual or equipment service contract requires specific temperature levels to prevent damage to special equipment.

(2) Where maintenance of certain temperature and humidity levels is critical to manufacturing, industrial or commercial processes.

(3) Where maintenance of certain temperature and humidity levels is required for the proper storage or handling of food or other agricultural commodities.

(4) Any other circumstances where special environmental conditions are required to protect animal or plant life or materials or processes, essential to the operation of a business within a covered building.

(b) No exemption for a covered building from the requirements of this Part may be effective until a "Certificate of Exemption" has been completed in accordance with forms and instructions provided by DOE.

(1) One copy of the "Certificate of Exemption" shall be posted in a prominent location within the covered building.

(2) A second copy of the "Certificate of Exemption" shall be submitted to DOE in accordance with instructions to be provided by DOE.

(c) Any person who claims an exemption to which he is not entitled is subject to the penalties provided in subpart G of this Part.

(d) Where the person entitled to an exemption under this Part is not the owner or operator of the covered building(s) to which the exemption applies, the owner or operator of the covered building(s) is authorized to adjust space-conditioning control devices and hot water temperature control devices in accordance with § 490.34.

(3) Any operator, other than an operator who claims an exemption, shall not be liable for violation of this Part as the result of acting in reliance upon an exemption which subsequently is determined to be invalid.

§ 490.32 Specific exceptions.

(a) In addition to the general exemptions available under § 490.31 or under subparts B and C, any person who would experience special hardship, inequity or an unfair distribution of the burden as a result of the requirements of Subparts B and C of this Part may submit an "Application for Exception" in accordance with Subpart D of Part 205 of this Chapter.

(b) If the person submitting the 'Application for Exception" is not the owner or operator of the covered building(s) to which the requested exception is to apply, and if the exception is granted by DOE, then the owner or operator of the covered building(s) is authorized to adjust space-conditioning control devices and hot water temperature control devices in accordance with the provisions of the exception provided by DOE.

§ 490.33 Limitation of exceptions or exemptions.

DOE may limit the exemption or exception granted by this Part to all or any portion of a covered building. DOE may specify heating, cooling or hot water temperature controls to be applicable in the excepted portion of a covered building.

§ 490.34 Scope of exceptions or exemptions.

The operator of a covered building subject to an exemption or exception pursuant to this Part shall, where practicable, maintain the temperature levels prescribed in Subparts B and C, or such other levels consistent with maximum energy savings.

§ 490.35 Exemption procedures for States.

(a) A state may seek for itself or a political subdivision an exemption from the application of this part in such state or political subdivision during a period for which the President of the United States or his delegate determines a comparable program of such state or political subdivision is in effect.

(b) A state seeking an exemption for itself or a political subdivision on the ground that a comparable program is in effect shall submit to the Secretary a "Request for State Exemption" which shall include the following information:

(1) A full description of the comparable program;

(2) An estimate of the types and amount of energy which such program will conserve;

(3) The effective dates of the program;

(4) A description of energy conservation measures implementable at the state or local level and their expected energy savings;

(5) A comparison of energy savings estimated to result in that state from compliance with these regulations and estimated energy savings under the proposed comparable program which demonstrates that the comparable program conserves at least as much energy in the state or political subdivision as these regulations. The comparisons shall be performed using a consistent methodology for estimating building energy consumption.

(6) Such other information as the Secretary may require.

(c) A request for exemption by a state shall be sent to:

Secretary, Department of Energy,
Washington, D.C. 20585.

(d) For purposes of this section:

(1) "Comparable program" means a program which deals with the same subject matter as these regulations, which is mandatory, and which conserves at least as much energy in the state or political subdivision thereof as adherence to the requirements of these regulations would be expected to conserve in such state or political subdivision;

(2) "Same subject matter" means heating, cooling and hot water temperature restrictions in covered buildings.

Subpart E—General Provisions

§ 490.41 Joint and several liability.

The owner and operator shall be jointly and severally liable for the execution of operator responsibilities under this Part where an agency relationship exists between the owner and operator.

§ 490.42 Reporting requirement.

Any public utility or any fuel distributor shall make available to the DOE, upon request, customer lists or other information deemed necessary by DOE to administer and enforce these regulations.

§ 490.43 Self-certification.

(a) The owner of a covered building shall, within 30 days of the effective date of this regulation, complete in accordance with instructions provided by DOE and post in a prominent location within the covered building a "Building Owner's Certificate" certifying compliance with the requirements of this Part.

(b) It shall be deemed a violation of this Part for an owner to fail to post a "Building Owner's Certificate" as required by paragraph (a), or to fail to provide the information required on the "Building Owner's Certificate" or to provide false, misleading or incomplete information.

(c) DOE will make "Building Owner's Certificates" and instructions available at convenient locations throughout the country. In addition, a "Building Owner's Certificate" and instructions for its completion may be obtained from:

Director, Office of Building and Community Systems Office of Conservation and Solar Applications, 20 Massachusetts Avenue, NW., Room 2221C, Washington, D.C. 20585

Attention: EBTR Building Owner's Certificate.

Subpart F—Administrative Procedures

§ 490.51 Purpose and scope.

This Subpart establishes the procedures for determining the nature and extent of violations of section 524(c) of the EPCA and the procedures for issuance of a Notice of Violation, Violation Order, Violation Order for Immediate Compliance, Modification or Rescission Decision and Order, and Stay Decision and Order. Nothing in these regulations shall affect the authority of DOE enforcement officials in coordination with the Department of Justice to initiate appropriate civil or criminal enforcement actions in court at any time.

§ 490.52 Notice of violation.

(a) When any audit or investigation discloses, or the DOE otherwise finds, that any person has engaged, is engaged, or is about to engage in acts or practices contrary to the provisions of Standby Conservation Plan No. 2 (Emergency Building Temperature Restrictions) and implementing regulations in violation of section 524(c) of the EPCA, the DOE may issue a Notice of Violation. Any notice issued under this section shall be in writing and shall set forth the findings of fact and conclusions of law upon which it is based.

(b) Within 10 business days after the service of a Notice of Violation the person upon whom the Notice is served may file a reply with the DOE office that issued the Notice of Violation. The DOE may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a statement of all relevant facts pertaining to the acts or practices

that are the subject of the Notice of Violation. The reply shall include a statement of the legal, business and other reasons for the acts or practices; a description of the acts or practices; and a discussion of the pertinent provisions and relevant facts reflected in any document submitted with the reply. Copies of all relevant contracts, reports, abstracts, compilations of data and other documents shall be submitted with the reply. The reply shall include a discussion of the relevant authorities which support the position asserted, including rulings, regulations, interpretations, orders and decisions issued by DOE.

(d) The reply should indicate whether the person requests an informal conference regarding the notice. A request for a conference must be in writing and shall be goverened by the provisions of 10 CFR 205.171, which are incorporated by reference herein and made a part of this subsection.

(e) If a person has not filed a reply with the DOE within the 10-day or other period authorized for reply, the person shall be deemed to have admitted the accuracy of the factual allegations and legal conclusions stated in the Notice of Violation, and the DOE may proceed to issue a Violation Order in accordance with §490.53.

(f) If the DOE finds, during or after the 10-day or other period authorized for reply, that no violation has occured, is continuing, or is about to occur, or that for any reason the issuance of a Violation Order would not be appropriate, it shall rescind the Notice of Violation and inform the person to whom the Notice was issued for the rescission.

§490.53 Violation order.

After considering all information received during the proceeding, the DOE may issue a Violation Order. The Violation Order may adopt the findings and conclusions contained in the Notice of Violation or may modify or rescind any such finding or conclusion to conform the Order to the evidence or on the basis of a determination that the finding or conclusion is erroneous in fact or law or is arbitrary or capricious. Such Order shall constitute a final agency order subject to judicial review. Unless otherwise specified, the Violation Order shall be effective 10 business days after the date of issuance. In the alternative, the DOE may determine that no Violation Order should be issued or that the Notice of Violation should be withdrawn for further consideration or modification. Every determination made pursuant to this section shall state the relevant facts and legal bases supporting the determination.

§ 490.54 Violation order for immediate compliance.

(a) Notwithstanding the provisions of § 490.52 or § 490.53, the DOE may issue a Violation Order for Immediate Compliance, which shall be effective upon issuance and until rescinded or suspended, if it finds:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and wavier of the procedures afforded under § 490.52.

(b) A Violation Order for Immediate Compliance shall be served promptly upon the person against whom such Order is issued by personal service, telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis for the Violation Order for Immediate Compliance, including the findings required by paragraph (a) of this section.

(c) The DOE may rescind or suspend a Violation Order for Immediate Compliance if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a Notice of Violation issued under § 490.52.

(d) If at any time in the course of a proceeding commenced by a Notice of Violation the criteria set forth in paragraph (a) of this section are satisfied, the DOE may issue a Violation Order for Immediate Compliance, even if the 10-day period for submitting a reply to that document has not expired.

§ 490.55 Modification or rescission.

(a) Any person to whom a Violation Order or Violation Order for Immediate Compliance is directed may make application for modification or rescission of such Order.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the DOE action sought; and shall include a discussion of the relevant authorities which support the position asserted, including, but not limited to, DOE rulings, regulations, interpretations and decisions. The applicant shall fully describe the events, acts or transactions that comprise the significantly changed circumstances, as defined in paragraph (e)(2), upon which the application is based. The applicant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(c) The application should indicate whether the person requests an informal conference. A request for a conference must be in writing and shall be governed by the provisions of 10 CFR 205.171, which are incorporated by reference herein and made a part of this subsection.

(d) (1) If the DOE determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOE may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful the DOE may dismiss the application with prejudice.

(2) (i) If the applicant fails to satisfy the requirements of paragraph (b) of this section, the DOE shall issue an order denying the application. The order shall state the grounds for the denial.

(ii) The order denying the application shall become final within 5 days of its service upon the applicant, unless within such 5-day period an amendment to correct the deficiencies identified in the order is filed with the DOE.

(iii) Within 5 days of the filing of such amendment, the DOE shall notify the applicant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, the notice shall be an order dismissing the application as amended. Such order shall be a final agency order subject to judicial review.

(e) *Criteria.* (1) An application for modification or rescission of an order shall be processed only if the application demonstrates that it is based on significantly changed circumstances.

(2) For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based;

(ii) The discovery of a law, regulation, interpretation, ruling, order or decision that was in effect at the time of the proceeding upon which the application is based and which, if such had been made known to the DOE, would have been relevant to the proceeding and

would have substantially altered the outcome; or

(iii) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order of the DOE affecting the applicant was issued, which change has occurred during the interval between issuance of such order and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

(f) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOE shall issue an order granting or denying the application. The order shall include a written statement setting forth the relevant facts and the legal basis of the order. Such order shall be a final agency order subject to judicial review.

§490.56 Stay pending judicial review.

(a) Any person to whom a Violation Order or Violation Order for Immediate Compliance is directed may make application for a stay of such Order pending judicial review.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the DOE action sought. Such facts shall include, but not be limited to, all information that relates to the satisfaction of the criteria in paragraph (e). A copy of the Order from which a stay is sought shall be included with the application.

(c) If the DOE determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the DOE may dismiss the application without prejudice. if the failure to supply additional information is repeated or willful, the DOE may dismiss the application with prejudice.

(d) The DOE shall grant or deny the application for stay within 5 business days after receipt of the application.

(e) *Criteria.* The grounds for granting a stay are:

(1) A showing that irreparable injury will result in the event that the stay is denied;

(2) A showing that denial of the stay will result in a more immediate serious hardship or gross inequity to the applicant than to the other persons affected by the proceeding;

(3) A showing that it would be desirable for public policy or other reasons to preserve the status quo ante pending a decision on the merits of the appeal or exception;

(4) A showing that it is impossible for the applicant to fulfill the requirements of the original order; and

(5) A showing that there is a likelihood of success on the merits.

(f) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOE shall issue an order granting or denying the application. The order shall include a written statement setting forth the relevant facts and the legal basis of the decision, and the terms and conditions of the stay.

(g) The grant or denial of a stay is not an order of the DOE subject to administrative review.

§ 490.57 Consent order.

(a) Notwithstanding any other provision of this Subpart, the DOE may at any time resolve an outstanding compliance investigation or proceeding with a Consent Order. A Consent Order must be signed by the person to whom it is issued, or a duly authorized representative, and must indicate agreement to the terms contained therein. A Consent Order need not constitute an admission by any person that DOE regulations have been violated, nor need it constitute a finding by the DOE that such person has violated DOE regulations. A Consent Order shall, however, set forth the relevant facts which form the basis for the Order. A Consent Order is a final Order of the DOE having the same force and effect as a Violation Order issued pursuant to § 490.53.

(b) At any time and in accordance with the procedures of § 490.55, a Consent Order may be modified or rescinded upon petition by the person to whom the Consent Order was issued, and may be rescinded by the DOE upon discovery of new evidence which is materially inconsistent with the evidence upon which the DOE's acceptance of the Consent Order was based.

(c) Notwithstanding the issuance of a Consent Order, the DOE may seek civil or criminal penalties or compromise civil penalties pursuant to Subpart G concerning matters encompassed by the Consent Order, unless the Consent Order by its terms expressly precludes the DOE from so doing.

(d) If at any time after a Consent Order becomes effective it appears to the DOE that the terms of the Consent Order have been violated, the DOE may refer such violations to the Department of Justice for appropriate action in accordance with Subpart G.

§ 490.58 Remedies.

A Violation Order, a Violation Order for Immediate Compliance, a Modification or Rescission Decision and Order, or a Consent Order may require the person to whom it is directed to make an appropriate adjustment in building or domestic hot water temperature, to post a correct Building Owner's Certificate, and to take such other action as the DOE determines is necessary to eliminate the effects of a violation.

Subpart G—Investigations, Violations, Sanctions and Judicial Actions

§ 490.61 Investigations.

Investigations will be conducted in accordance with the provisions set forth in 10 CFR 205.201.

§ 490.62 Violations.

Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of this Part or any order issued pursuant thereto is a violation of the regulations stated in this Part.

§ 490.63 Sanctions.

(a) *General.* Any person who violates any provision of this Part or any Order issued pursuant thereto shall be subject to penalties and sanctions as provided herein.

(1) The provisions herein for penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of this chapter or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this chapter relating to criminal fines and civil penalties.

(b) *Civil penalties.* (1) Any person who violates any provision of this Part or any order issued pursuant thereto shall be subject to a civil penalty of not more than $5000 for each violation.

(2) The DOE may at any time refer a violation to the Department of Justice for the commencement of an action for civil penalties. When the DOE considers it to be appropriate or advisable, it may compromise, settle and collect civil penalties.

(c) *Criminal penalties.* (1) Any person who willfully violates any provision of this Part or any order issued pursuant thereto shall be fined not more than $10,000 for each violation.

(2) The DOE may at any time refer a willful violation to the Department of Justice for criminal prosecution.

(d) *Other penalties.* Willful concealment of material facts or false or fictitious or fraudulent statements or representations, or willful use of any false writing or document containing false, fictitious or fraudulent statements pertaining to matters within the scope of section 524(c) of the EPCA by any person shall subject such person to the criminal penalties provided in 18 U.S.C. 1001 (1970).

§ 490.64 Injunctions.

Whenever it appears to the DOE that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order issued under this chapter, the DOE may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices and, upon a proper showing, a temporary restraining order or a preliminary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include, without limitation, a mandatory injunction commanding any person to comply with any such order or regulation.

Appendix

Waiver of the Provisions of Executive Order No. 12044 on "Improving Government Regulations" and the Department of Energy's Implementing Regulations

Pursuant to the authority vested in me by the Department of Energy Organization Act (Pub. L. 95–91) and the Department's regulations which implement the terms of Executive Order No. 12044 on "Improving Government Regulations" I hereby waive all of the rulemaking procedures contained in the Executive Order and implementing regulations with respect to a proposed rule which would implement the terms of the Emergency Building Temperature Restrictions that were approved by the Congress in Energy Conservation Contingency Plan No. 2 on May 10, 1979.

The continued reduction in World Crude oil production has resulted in shortages of essential fuels and major adverse effects on the national safety and the economy. Recent shortages of gasoline in some areas of the Nation have underscored the gravity of the situation and require that action be taken now to conserve available supplies.

One of the primary concerns of the Department at this time is to ensure that adequate supplies of distillate fuels are available this winter for home heating. Implementation of the Emergency Building Temperature Restrictions is an essential action that must be taken to conserve available supplies, and implementing those restricitons now, prior to the peak cooling season, will maximize the conservation potential.

In view of the need to implement the Emergency Building Temperature Restrictions Plan by July 1, 1979, and the emergency nature of the current energy supply shortages, I therefore find it in the public interest to waive the provisions of the Executive Order and the Department's implementing regulations.

Issued in Washington, D.C. on May 30, 1979.

John F. O'Leary,

Deputy Secretary, Department of Energy.

[FR Doc. 79–17287 Filed 5–31–79; 8:45 am]

BILLING CODE 6450–01–M

Reader Aids

Federal Register
Vol. 44, No.107
Friday, June 1, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 –5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects

FEDERAL REGISTER PAGES AND DATES, JUNE

31599-31938.....1

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/ Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

TABLE OF EFFECTIVE DATES AND TIME PERIODS— JUNE 1979

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
June 1	June 18	July 2	July 16	July 31	August 30
June 4	June 19	July 5	July 19	August 3	September 4
June 5	June 20	July 5	July 20	August 6	September 4
June 6	June 21	July 6	July 23	August 6	September 4
June 7	June 22	July 9	July 23	August 6	September 5
June 8	June 25	July 9	July 23	August 7	September 6
June 11	June 26	July 11	July 26	August 10	September 10
June 12	June 27	July 12	July 27	August 13	September 10
June 13	June 28	July 13	July 30	August 13	September 11
June 14	June 29	July 16	July 30	August 13	September 12
June 15	July 2	July 16	July 30	August 14	September 13
June 18	July 3	July 18	August 2	August 17	September 17
June 19	July 5	July 19	August 3	August 20	September 17
June 20	July 5	July 20	August 6	August 20	September 18
June 21	July 6	July 23	August 6	August 20	September 19
June 22	July 9	July 23	August 6	August 21	September 20
June 25	July 10	July 25	August 9	August 24	September 24
June 26	July 11	July 26	August 10	August 27	September 24
June 27	July 12	July 27	August 13	August 27	September 25
June 28	July 13	July 30	August 13	August 27	September 26
June 29	July 16	July 30	August 13	August 28	September 27

CFR CHECKLIST; 1978/1979 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1978/1979. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1979):

Title	Price
1	$3.00
4	4.50
7 Parts:	
0–52	6.75
900–944	5.25
981–999	3.75
1000–1059	6.00
2852	6.00
2853–end	4.50
13	5.00
14 Parts:	
1200–end	3.50
16 Parts:	
150–999	4.25

CFR Unit (Rev. as of Apr. 1, 1978):

17	$8.25
18 Parts:	
0–149	5.00
150–end	5.00
19	6.00
20 Parts:	
1–399	3.50
400–499	5.00
500–end	4.50
21 Parts:	
1–99	4.00
100–199	6.00
200–299	2.75
300–499	5.75
500–599	5.00
600–1299	4.25
1300–end	4.50
22	5.50
23	5.00
24 Parts:	
0–499	8.25
500–end	9.00
25	5.50
26 Parts:	
1 (§§ 1.0–1.169)	5.75
1 (§§ 1.301–1.400)	4.00
1 (§§ 1.401–1.500)	4.75
1 (§§ 1.501–1.640)	4.75
1 (§§ 1.641–1.850)	4.75
1 (§§ 1.851–1.1200)	6.00
1 (§§ 1.1201–end)	6.50
2–20	4.75
30–39	5.50
40–299	5.50
300–499	4.75
600–end	3.00
27	8.75

CFR Unit (Rev. as of July 1, 1978):

28	$4.50
29 Parts:	
0–499	6.25
500–1899	6.25
1900–1919	7.00
1920–end	5.25
30	6.25
31	6.25
32 Parts:	
40–399	8.50
400–589	4.50
590–699	4.50
700–799	8.00
800–999	5.50
1000–1399	3.50
1400–1599	4.50
1600–end	3.00
32A	4.00
33 Parts:	
1–199	6.25
200–end	5.75
35	4.75
36	5.00
37	4.00
38	6.50
39	4.25
40 Parts:	
0–49	4.75
50–59	6.50
60–99	8.50
100–399	5.50
41 Chapters:	
1–2	6.50
3–6	5.75
7	2.75
8	2.75
10–17	4.75
18 Parts:	
1–52 (Vol. III, Rev. 7/31/78)	5.75
19–100	4.50
CFR Index	5.00

CFR Unit (Rev. as of Oct. 1, 1978):

42 Parts:	
1–399	$6.00
400–end	5.50
43 Parts:	
1–999	4.25
1000–end	6.50
44 [Reserved]	
45 Parts:	
1–99	4.75
100–149	5.75
150–199	5.25
200–499	3.50
46 Parts:	
1–29	3.25
30–40	3.25
41–69	4.50
70–89	3.75
90–109	3.25
110–139	3.25
140–155	3.50
156–165	4.25
166–199	3.00
200–end	6.50
47 Parts:	
0–19	5.00
20–69	5.75
70–79	5.25
49 Parts:	
1–99	3.25
1000–1199	5.00
1300–end	4.50
50	5.75

AGENCY ABBREVIATIONS

Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Department of Agriculture
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FTZB Foreign-Trade Zones Board
ITA Industry and Trade Administration
MA Maritime Administration
MBEO Minority Business Enterprise Office
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USFA United States Fire Administration
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

DOE Energy Department

BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
FDAA Federal Disaster Assistance Administration
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
FIA Federal Insurance Administration
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
RB Reclamation Bureau
SMRE Surface Mining Reclamation and Enforcement Office

JUSTICE Justice Department

DEA Drug Enforcement Administration
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

AID Agency for International Development
FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLS Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
ITC International Trade Commission
LSC Legal Services Corporation
MB Metric Board
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
RB Renegotiation Board
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

CIVIL AERONAUTICS BOARD

25627 5–2–79 / Notice of limited liability for baggage; alternative consolidated notice of liability limitations

ENERGY DEPARTMENT

Economic Regulatory Administration—

25621 5–2–79 / Domestic crude oil allocation entitlements program to reduce the level of benefits received under the small refiner bias, amendments

25828 5–2–79 / Incentive prices for newly discovered crude oil

22010 4–12–79 / Production incentives for marginal properties

[Corrected at 44 FR 25160, 4–27–79]

FEDERAL COMMUNICATIONS COMMISSION

24556 4–26–79 / Angola, Ind.; changes in TV broadcast station table of assignment

24555 4–26–79 / Columbia, N.C., changes in FM broadcast table of assignment

29071 5–18–79 / Employee responsibilities and conduct; creation of a Sunshine agenda

24288 4–25–79 / FM broadcast stations; changes in table of assignments; Dubach, La.

24289 4–25–79 / FM Brodcast stations; changes in table of assignments; Hayward, Wis.

38390 8–28–79 / Remote broadcast stations; extension of date of compliance with frequency specifications

24556 4–26–79 / Springfield, Mo.; TV broadcast station table of assignments

FEDERAL TRADE COMMISSION

19160 3–30–79 / Octane certification and posting for automobile gasoline

TRANSPORTATION DEPARTMENT

Coast Guard—

32112 7–24–78 / Additional equipment for vessels of 10,000 gross tons or more

26740 5–7–79 / Radar requirements for certain tankers of 10,000 gross tons or more

VETERANS ADMINISTRATION

28328 5–15–79 / Pension and parents' dependency and indemnity compensation rate increases

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing May 29, 1979

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: June 15 and July 6 at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

BOSTON, MASSACHUSETTS

WHEN: June 13 and 14, at 9:30 a.m. (identical sessions).

WHERE: John F. McCormack Federal Building, Conference Room 208, Boston.

RESERVATIONS: Call James Mullen, 617–223–2868.

LOS ANGELES, CALIFORNIA

WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).

WHERE: Federal Building, Army Corps of Engineers Conference Room 7412, 300 N. Los Angeles Street

RESERVATIONS: Federal Information Center, 213–688–3600.

SAN FRANCISCO, CALIFORNIA

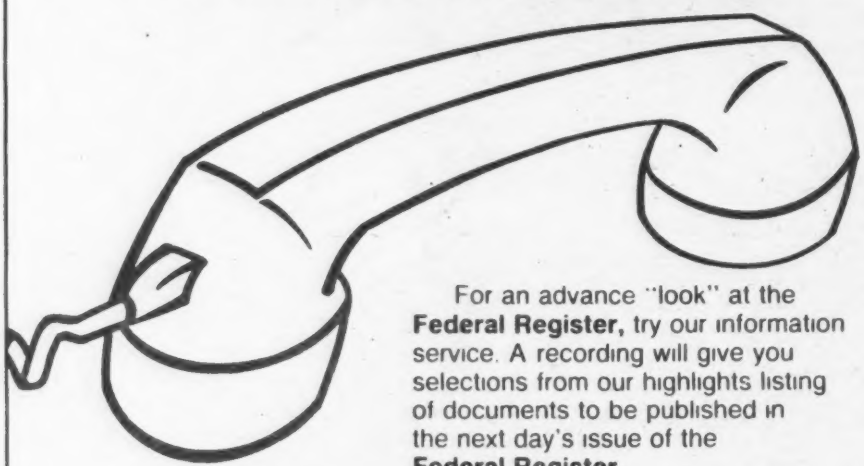
WHEN: June 28 and 29 at 9:00 a.m. (identical sessions).

WHERE: Federal Building, Room 2007, 450 Golden Gate Avenue

RESERVATIONS: Call Mike Modena or Judy Barbee, Federal Executive Board, 415–556–0250.

dial·a·reg

Now available in Chicago



For an advance "look" at the **Federal Register,** try our information service. A recording will give you selections from our highlights listing of documents to be published in the next day's issue of the **Federal Register.**

312-663-0884